

DIRECTIVE

WORKFORCE SERVICES

Number: WSD11-8

Date: March 20, 2012

69:52:ab:15237

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: SELECTIVE SERVICE REGISTRATION

EXECUTIVE SUMMARY:

Purpose:

This directive provides guidance regarding Selective Service registration requirements for participation in Workforce Investment Act (WIA) funded services. Additionally, this directive contains model questions to help Local Workforce Investment Area (local area) staff determine whether failure to register by a current or potential WIA participant was knowing and willful.

Scope:

This directive applies to all local areas.

Effective Date:

This directive is effective upon release.

REFERENCES:

- WIA Section 189(h)
- Title 50 United States Code Appendix 453 (Military Selective Service Act)
- Title 20 Code of Federal Regulations Section 667.250
- Training and Employment Guidance Letter (TEGL) 11-11, Change 1, Selective Service Registration Requirements for Employment and Training Administration Funded Programs (January 20, 2012)
- TEGL 8-98, Selective Service Registration (November 4, 1998)
- WIA Job Training Automation System Client Forms Handbook

STATE-IMPOSED REQUIREMENTS:

This directive contains no State-imposed requirements.

FILING INSTRUCTIONS:

This directive supersedes WIA Directive WIAD01-4, dated August 28, 2001, and finalizes Workforce Services Draft Directive WSDD-63, issued for comment on February 3, 2012. The Workforce Services Division received four comments during the draft comment period. The comments resulted in three substantive changes to the directive, which are viewed as highlighted text. The highlighted text will remain on the

The EDD, an equal opportunity employer/program, is a partner in this publication. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling (916) 654-8055 (Voice). TTY users, please call the California Relay Service at 711.

Internet for 30 days from the issuance date. A summary of the comments is provided as an attachment to the directive. Retain this directive until further notice.

BACKGROUND:

Only those males who are subject to, and have complied with, the registration requirements of the Military Selective Service Act are eligible for participation in WIA funded programs and services. Section 189(h) of the WIA requires the Secretary of Labor to ensure that each individual participating in any WIA program, or receiving any assistance under the Act, has not violated the requirements of Section 3 of the Military Selective Service Act. This section requires that every male citizen and every other male residing in the United States must register with Selective Service between their 18th and 26th birthday. This section also requires the Director of the Selective Service System and the Secretary of Labor to cooperate in carrying out these provisions.

POLICY AND PROCEDURES:

All programs and services established or receiving assistance under Title 1 of WIA must comply with Selective Service registration requirements. These requirements apply to both formula and discretionary grants awarded by the Employment and Training Administration under WIA. These requirements do not apply to programs funded or authorized solely by the Wagner-Peyser Act.

Selective Service Registration Requirements

Men born on or after January 1, 1960, are required to register with Selective Service within 30 days of their 18th birthday and up to, but not including their 26th birthday.

This includes men who are:

- Citizens of the U.S.;
- Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees who take up residency in the U.S. prior to their 26th birthday;
- Dual nationals regardless of whether they live in the U.S.; and/or
- Veterans discharged before their 26th birthday.

For U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Men who are serving in the military on full-time active duty;
- Men attending the service academies;
- Disabled men who were continually confined to a residence, hospital or institution; and/or
- Men who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26th birthday.

For non-U.S. citizens, Selective Service registration is not required if the man falls within one of the following categories:

- Non-U.S. male who entered the U.S. for the first time after his 26th birthday. Acceptable forms of supporting documentation include:

1. Date of entry stamp in his passport;
 2. I-94 with date of entry stamp on it; or
 3. Letter from the U.S. Citizenship and Immigration Services indicating the date the man entered the U.S. (shown along with documentation establishing the man's age).
- Non-U.S. male who entered the U.S. illegally after his 26th birthday. He must provide proof that he was not living in the U.S. from age 18 to 25.
 - Non-U.S. male on a valid non-immigrant visa.

NOTE: The requirement for transsexual, transgendered, and intersex individuals to register with Selective Service depends upon the gender recorded on their birth certificate. If an individual is recorded as a male, that individual would need to register for Selective Service regardless of their present sexual identity (e.g. sex change from male to female). However, if that individual's birth certificate is later changed to reflect a female identity, that individual would not be required to register.

Additional information regarding registration requirements can be found on the Selective Service website at www.sss.gov. This website also provides a quick reference chart listing who must register at www.sss.gov/PDFs/WhoMustRegisterChart.pdf.

Acceptable Documentation

In order to be eligible to receive WIA-funded services, all men born on or after January 1, 1960, must present documentation showing compliance with the Selective Service registration requirement. Acceptable documentation to determine a person's Selective Service registration status include:

- Selective Service Acknowledgement letter
- Form DD-214 "Report of Separation"
- Screen printout of the selective Service Verification site:
www.sss.gov/RegVer/wfVerification.aspx. For men who already registered, this website can be used to confirm their Selective Service number as well as the date of registration, by entering a last name, social security number, and date of birth.
- Selective Service Registration Card
- Selective Service Verification Form (Form 3A)
- Stamped Post Office Receipt of Registration

Registration Requirements for Men Under 26

Before being enrolled in WIA-funded services, all men who are not registered with Selective Service and have not reached their 26th birthday must register through the Selective Service website at www.sss.gov. If a male turns 18 while participating in WIA-funded services, registration with Selective Service must be completed no later than 30 days after he becomes 18 in order to continue to receive WIA-funded services. If a man under the age of 26 refuses to register with Selective Service, WIA-funded services must be suspended until he registers.

Non-Registration by Men 26 and Over

Before enrolling in WIA-funded services, all men 26 years of age and older, must provide documentation of compliance with the Selective Service registration requirement. Individuals who did not register for Selective Service or who cannot provide any of the documentation listed in the “Acceptable Documentation” section of this directive must obtain a Status Information Letter from Selective Service indicating whether they are required to register. The Request for the Status Information Letter form can be accessed at www.sss.gov/PDFs/infoform.pdf and the instructions can be accessed at www.sss.gov/PDFs/instructions.pdf. The individual will need to describe, in detail, the circumstances that prevented him from registering (e.g., hospitalization, incarceration, military service) and provide documentation of those circumstances. The documentation should be specific as to the dates of the circumstances.

Status Information Letter

If the Status Information Letter indicates that an individual was not required to register for Selective Service, then he is eligible to enroll in a WIA-funded service. If the Status Information Letter indicates that the individual was required to register and now is unable because he is 26 or older, he is presumed to be disqualified from participation in WIA-funded activities and services until it can be determined that his failure to register was not knowing and willful. All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

How to Determine “Knowing and Willful” Failure to Register? (Documentation and Model Questions)

If the individual was required but failed to register with Selective Service, the individual may only receive services if he establishes by a preponderance of the evidence that the failure to register was not knowing and willful. The local area that enrolls individuals in WIA-funded activities, and is thereby authorized to approve the use of WIA grant funds, is the entity responsible for evaluating the evidence presented by the individual and determining whether the failure to register was knowing and willful.

Documentation

Evidence presented may include the individual’s written explanation and supporting documentation of his circumstances at the time of the required registration and the reason(s) for failure to register. The individual should be encouraged to offer as much evidence and in as much detail as possible to support his case. The following are examples of documentation that may be of assistance in making a determination in these cases:

- Service in Armed Forces. Evidence that a man has served honorably in the U.S. Armed Forces such as a Form DD-214 or his Honorable Discharge Certificate. Such documents may be considered sufficient evidence that his failure to register was not willful or knowing.
- Third Party Affidavits. Affidavits from parents, teachers, employers, doctors and others concerning reasons for not registering may help grantees in making determinations in cases regarding willful and knowing failure to register.

Model Questions

In order to establish consistency regarding the implementation of the requirement, local areas should consider the following questions as a model when determining whether a failure to register is knowing and willful.

In determining whether the failure was “knowing,” local areas should ask:

- Was the individual aware of the requirement to register?
- If the individual knew about the requirement to register, was he misinformed about the applicability of the requirement to him (e.g. veterans who were discharged before their 26th birthdays were occasionally told that they did not need to register)?
- On which date did the individual first learn that he was required to register?
- Where did the individual live when he was between the ages of 18 and 26?
- Does the status information letter indicate that Selective Service sent letters to the individual at that address and did not receive a response?

In determining whether the failure was “willful,” local areas should ask:

- Was the failure to register done deliberately and intentionally?
- Did the individual have the mental capacity to choose whether or not to register and decided not to register?
- What actions, if any, did the individual take when he learned of the requirement to register?

Results of Findings

If a local area determines that an individual’s failure to register with Selective Service was not knowing and willful and the individual is otherwise eligible, services may be provided. However, if the authorized organization determines that evidence shows that the individual’s failure to register was knowing and willful, WIA services must be denied. Individuals denied services must be advised of available WIA grievance procedures. Local areas must keep documentation related to determinations on Selective Service.

ACTION:

Please bring this directive to the attention of all relevant parties.

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ MICHAEL EVASHENK, Chief
Workforce Services Division

Attachment

Summary of Comments
Draft Directive “Selective Service Registration”

There were four commenters to the draft version of this directive:

Commenter #1: inquired whether Selective Service has addressed registration requirements for a male transgender who is in the process of changing his sex.

Resolution: The Selective Service requirement for transsexual, transgendered, and intersex individuals depends upon the gender recorded on their birth certificate. If an individual is recorded as a male, that individual would need to register for Selective Service regardless of their present sexual identity (e.g. sex change from male to female). However, if that individual's birth certificate is later changed to reflect a female identity that individual would not be required to register. This information has been included in the “Selective Service Registration Requirements” section of the directive.

Commenter #2: requested that the directive clarify that men are required (and able) to register for Selective Service during the period between 30 days before their 18th birthdays and *up to but not including* their 26th birthdays.

Resolution: The Employment Development Department (EDD) revised the first sentence in the “Selective Service Registration Requirements” section of the directive to read, “Men born on or after January 1, 1960, are required to register with the Selective Service within 30 days of their 18th birthday and up to, but not including their 26th birthday.”

Commenter #3: requested that the directive clarify that serving in the military does not constitute compliance with the Selective Service registration requirement.

Resolution: The EDD added the bullet, veterans discharged before their 26th birthday, to the “Selective Service Registration Requirements” section on page two of the directive.

Commenter #4: inquired whether a One-Stop may be allowed to review the provided model questions with a veteran customer, and if able to determine the failure to register with Selective Service was not knowing and willful, accept the Form DD-214 “Report of Separation” at time of registration, without requiring the veteran to obtain a Status Information Letter.

Resolution: Yes, Section 12(g) of the Military Selective Service Act allows veterans who failed to register with Selective Service to receive WIA funded services by presenting their DD-214 showing the dates of their military service. This document serves as evidence that their failure to register was not knowing and willful. This information is conveyed in the “Non-Registration by Men 26 and Over” section of the directive which states that individuals who can provide any of the documentation listed in the “Acceptable Documentation” section of the directive (which includes the DD-214) do not need to obtain a Status Information Letter.